

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

<b>OTHA DAVID RUTLEDGE, JR.,</b>	:	
	:	
Petitioner,	:	Case No.: 5:08-cv-346 (CAR)
	:	
v.	:	
	:	
<b>JAMES E. DONALD,</b>	:	Proceeding Under 28 U.S.C. § 2254
	:	
Respondent.	:	

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***ORDER ON THE UNITED STATES MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION***

Before the Court is the United States Magistrate Judge's Recommendation [Doc. 20] that Defendant's Motion to Dismiss [Doc. 11] be granted due to Petitioner Otha David Rutledge, Jr.'s failure to exhaust his state remedies as required by 28 U.S.C. § 2254(b) and (c) and Rose v. Lundy, 455 U.S. 509 (1982). Petitioner has filed no Objection to the Recommendation. The Court, having considered the Recommendation, agrees that this action should be DISMISSED without prejudice. Therefore, the Recommendation is **HEREBY ADOPTED AND MADE THE ORDER OF THE COURT.**

**SO ORDERED.** This 28th day of July, 2009.

S/ C. Ashley Royal  
C. ASHLEY ROYAL  
UNITED STATES DISTRICT JUDGE

SSH